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LAW SCHOOL

OF THE

UNIVERSITY OF MISSISSIPPI.

Announcement for Session 1897-98.

FACULTY:

ROBERT BURWELL FULTON, LL.D.,
Chancellor of the University.

G. D. SHANDS, LL. D.,
Dean of Law Faculty and Professor of Law.

THOMAS H. SOMERVILLE, LL. B.,
Professor of Law.

HON. HORATIO F. SIMRALL, LL. D.,
Lecturer on Constitutional and International Law.

HON. ROBERT A. HILL. Ex-U. S. District Judge,
Lecturer on Practice and Procedure in U. S. Courts.

HON. JEHU A. ORR, M. A.,
HON. HUGH A. BARR,
HON. J. W. T. FALKNER, LL. B.,
Lecturers on Common and Statute Law.

Miscellaneous
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UNIVERSITY OF MISSISSIPPI.

CHANCELLOR'S OFFICE.

University P. O., Miss., July 15, 1897.

Dear Sir—The Trustees and Faculty of the University of Mississippi have noticed with pleasure the determination of the Legislature, as expressed in Chapter 12, Code of 1892, to elevate the standard of legal learning for admission to the bar. Advancement along this line is evident in all the States, and in response thereto the course of training in law schools in several Universities has been extended to three years. Recognizing the difficulties which beset many worthy young men in their efforts to obtain legal education, the course in this University is, as in most of the law schools of the country, completed in two years.

We feel sure that the legal profession, and all of the more cultivated of our citizens, will be in accord with the sentiment which manifests itself in this law, and that this University will have the moral support and earnest sympathy of all our people in its endeavor to keep this State abreast of the advance elsewhere.

The requirement of Section 203, Code of 1892, is that the applicant shall pass an examination on written questions, to be propounded by our Chancellors and answered in open court, on the following subjects:

(1) Law of real property.
(2) Law of personal property.
(3) Law of pleading and evidence.
(4) Commercial law.
(5) Criminal law.
(6) Chancery and chancery pleadings.
(7) Statute law of Mississippi.
(8) The State and United States Constitutions.

The University law school has prescribed, and is using, a course of text-books covering all the above subjects, and more. The students are daily interrogated in the presence of the whole class, and careful markings made. Abstruse and complex passages in the books are opened up and simplified by current comment of the teacher, and the whole emphasized by timely lectures and by practice in moot

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courts. It is the determination of the University that the spirit and letter of Chapter 12 of the Code of 1892 shall be observed in its work and if the end and aim which was had in view be not accomplished, the blame shall not rest with us.

As suggested above, our curriculum is more comprehensive than is needed for simple admission to the bar. In fact, we have known of no instance within the three years last past in which a student, who had read our Junior course with us, has failed of securing license through the courts upon his application thereto. This school's greatest source of loss of students after first matriculation is, that our young men, at the end of the Junior year, apply to the Chancellors of the State for license and getting it, do not return to take the Senior year with us. This, however, is not ground for serious complaint. If a young man can only devote one year to law study, we give him that and he gets his license from the court. If he has time and opportunity to read both courses, Junior and Senior, with us, then, upon passing satisfactory examinations, he receives his diploma, and no examination by the court is necessary. We insist that a law school ought to aim at and provide for larger things than the mere impartation of enough law knowledge to enable the student to secure license to practice. We therefore urge all students, if possible, to remain two years with us and thereby enter upon the regular work of the profession with much fuller equipment. So to do is economy of time. It puts the young lawyer upon a higher plane at the beginning. He has more confidence in his own ability to cope with the difficulties of the practice and he is the better able to bridge the "Slough of Despond" which lies athwart the path of most young lawyers. We confidently assert that if the student will take even the brief period of four years and spend the first two thereof in the law school, his advancement at the end of the four, will be greater, and his success more satisfactory, than if he had spent three of the four, or all four of them at the bar; and the further he goes, the more certainly will full, thorough, careful, preliminary training tell in his behalf.

Each student is required to pass, during the course, six written examinations instead of four, as heretofore. These are not traps insidiously set to baffle and trip the student, but are tests, to indicate to the student himself, as well as to the teacher, the progress he is making. They correspond to the soundings of the sailor, and demonstrate to the student that he is, or he is not, doing well for himself. Upon each of these examinations he is fairly rated and his right to a diploma at the end depends upon the result of the com-

bined sessional and examination marking. To indicate the quality of these examinations we here give a list of the questions asked at the regular examinations during the year ending June, 1897:

QUESTIONS FOR INTERMEDIATE JUNIOR EXAMINATION JANUARY, 1897.

1. Blackstone lays down ten rules to be observed in the construction of statutes. What are they?
2. Discuss the principal duties of a tenant for years?
3. What is a mortgage; define its chief features and purposes and discuss equity of redemption?
4. Briefly discuss estates in severalty, joint-tenancy and common, giving the chief distinguishing properties or incidents of each?
5. Discuss the origin of the action on the case; in what crses does it lie; that is, for what torts does it furnish a remedy?
6. For what does action of ejectment lie, and what must be shown in order that the action be maintained and what is recoveraole at common law in this action?
7. State the essential allegations of the declaration in special assumpsit?
8. What advantages does a valid tender bring to the debtor; and name the five requirements of such a tender?
9. As to relevancy of testimony.—The production of evidence to the jury is governed by certain principles which may be treated of under four general heads. State them?
10. The general rule is, that an instrument of writing being produced, must be proved by the subscribing witness upon its introduction in evidence. There are several classes of exceptions to this rule; name five?

QUESTIONS FOR FINAL JUNIOR EXAMINATION, JUNE, 1897.

1. What three elements must unite in order to make real estate necessarily partnership property?
2. What is the right interest or property of a partner to or in the effects of the partnership?
3. State the several elements which combine to make up what is termed the apparent scope of the agent's authority, or that appearance of authority upon which the public may rely?
4. Explain the fundamental distinction which lies between the authority of an agent and that of a servant?

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5. What is the measure of damages for trespasses to real property which produce only temporary injury?

What, for permanent injuries?

6. Define damages; nominal damages; compensatory, consequential and exemplary damage?

7. Define an attempt which is indictable and punishable.

8. Discuss the effect of the consent of the injured person as a defense to a crime committed upon him, and give illustrations.

9. The indictment must state the offense and must state it with certainty. Why? Six rules.

10. Under what circumstances may a man be convicted of an offense other than the one specifically set out in the indictment?

QUESTIONS FOR INTERMEDIATE SENIOR EXAMINATION, JANUARY, 1897.

1. There are many exceptions to the rule *caveat emptor;* and in the excepted cases a warranty of quality is implied, though none is given. Lawson mentions five, and Smith on Personal Property one more. Will you state these exceptions?

2. When the law says that an infant is liable for the reasonable value of necessaries, what is meant by the word "necessaries," and what five limitations circumscribe the right of infants to bind themselves for necessaries?

3. Name the seven constituent elements of fraud which must be present to make legal fraud and vitiate the contract?

4. State the three main, and at least six of the subsidiary rules laid down by Lawson for our guidance in the construction of contracts?

5. In order to maintain an action for malicious prosecution, what four things must be shown?

6. A. owes to B. the duty to forbear to publish of B. defamation in its nature actionable *per se.* This duty is violated by A. by the publication of words, language or figures of a false and defamatory character concerning B. in either of five ways. Name them?

7. Name the chief points of difference between an ordinary partnership and a corporation at common law?

8. Applying the principles of the law of agency to officers of corporations, Taylor lays down four states of the case in which corporate officers contracting as such, in good faith, will not be liable to the other contracting party. State these?

9. State the three general rules which govern the respon-

sibility of a corporation for the torts of its servants and agents?

10. State the five ways in which a stock corporation may be dissolved?

FINAL SENIOR EXAMINATION, MAY, 1897.

1. Define a mortgage at common law, and explain the difference in legal effect between a defeasance deed and an agreement to repurchase.

2. *a.* Define estoppel *in pais* as it appears in the law of real estate?

b. When does estoppel by deed arise?

3. Define estates tail. Give the history of their origin?

4. The endorser of a bill or note is estopped from denying, and warrants to his indorsee and to all subsequent holders, five things. Name them?

5. When the plaintiff, who has sued at law upon a negotiable bill or note, produces to the court the instrument, what facts are, by the court, assumed as proven, and acted upon?

6. Mention the cases in which presentment of a bill or note for acceptance or payment is not necessary?

7. Define "indorsement," and give the formal requisites of an indorsement?

8. When you come to consider what language must be used in order that a trust may be created, what four things must appear in the instrument?

9. *a.* Define resulting trusts, and tell us how they may arise?

b. Define constructive trusrs?

10. When is a bill of interpleader a proper remedy, and what must it show?

To meet the demand for additional teaching force in the Law School, produced by the largely increased attendance for three years last past, the Board of Trustees, at its last session, created a new professorship, which has been filled by the selection of Thomas H. Somerville, Esq., of the Winona bar. This gives to this school two professors, who, in compliance with the requirement of the Board of Trustees, apply substantially all of their time to the work of instruction. John W. T. Falkner, Esq., of the Oxford bar, was added by the Board to the list of Lecturers. These Lecturers instruct the classes from time to time on topics assigned to them by the Law Faculty, and thus supplement the work of the regular Professors. The attendance during the year just closed was the largest ever known in the history of the School, and we most urgently crave your

earnest sympathy and hearty co-operation in the effort being made by this University to build up and maintain a Law School not inferior to those in our sister States.

We would call attention to the fact that the Law School has its own library of seventeen hundred volumes. Within the last few years the quality of this library has been greatly improved. Antiquated tomes have been exchanged for the newest and best of the late publications, and a reorganization of the whole has been had, with an eye single to its adaptation to the needs of a Law School. In it we have the American Reports, the American Decisions, the American State Reports, American and English Encyclopedia of Law, United States Supreme Court Reports (annotated), many English Reports and practically complete sets of the Reports of nine States, besides a large lot of text-books, digests, etc. This library is in our own lecture-room in one of the University buildings, and is open day and night, for six days in the week, to any student desiring access to it, and is at hand for immediate reference and citation by the Professor in his daily lectures. Having been collected and arranged with an eye directed solely to the needs of the law student, and being always in easy reach in a minute's time from any dormitory room, and being in the recitation room where he goes daily, and by means of which he speedily learns the exact location of all the books, it is far more valuable than a larger, unfamiliar lot of books, in which, by reason of his lack of experience, he would be bewildered by the very immensity of the resources within reach of his untrained hand.

Additions of new law books and legal periodicals are regularly made, and the library is kept fully up to every need and requirement of a Law School.

We set but little store by the superficial knowledge which the student gets from attendance upon the sessions of the United States and State Courts, and do not encourage attendance upon them except when trials of especial interest occur, and in these the professor attempts to prepare the student for a profitable hearing by imparting to him, in advance, knowledge of the pleadings, of the facts and of the points involved. Attendance upon any Law School brings a considerable outlay of the money of the student or of his parents, and we have found that the under-graduate student can more profitably spend any hour in preparation for the regular work of the class room and of the moot court, where he has the personal guidance, direction and instruction of the professor, than in a desultory, listless, irregular and unintelligent attendance upon the sessions of any court. Having had no opportunity for study of the

pleadings or of the facts, and unused to the technical language of the courts and the regular order of the administration of justice, the beginner in the boundless field of the law soon finds himself not well prepared to clearly comprehend, to a useful extent, the disputations and decisions passing before him.

We beg here to call attention to some points on the general subject of legal education made by James Bradley Thayer, LL. D., professor in the Law School of Harvard University, in an address which he, as chairman of the Section of Legal Education, delivered at the regular annual meeting of the American Bar Association, held at Detroit, Michigan, in August, 1895. This eminent law teacher, who has long held his place in the foremost Law Faculty in America, and who speaks the matured conviction of his years of active experience in that most illustrious Law School, in discussing the outfit and carrying on of these Law Schools, says that great progress has been made along the following lines:

"(1) Limiting the task of the instructors. Instead of allotting to a man the whole of the common law, or half a dozen disconnected subjects at once, it means giving him a far more limited field,—one single subject, perhaps; two or three at most; if more than one, then, if possible, nearly related subjects; to the end that his work of instruction may be thoroughly done, and that as the final outcome of his studies some solid, public, and permanent contribution may be made to the main topic which he has in hand.

It means (2) that instructors shall give, substantially, their whole time and strength to the work. In mastering their material and qualifying themselves for their task, they have in hand, say for the next two generations, much formidable labor in exploring the history and chronological development of our law in all its parts. On this, as I have indicated, a brave beginning has been made, and it is alteady yielding the handsomest fruits. They have also, of course, all the detail of their difficult main work of teaching; and this, when the work is fitly performed, calls for an amount of time, thought and attention bestowed on the personal side of a man's relation to his students which instructors now can seldom give.

It means (3) that the pupils also shall give all their time to the work of legal study while they are about it. There is more than enough in the careful preliminary study of the law to occupy three full years of an able and thoroughly trained young man. It is, I think, a delusion to suppose that this precious seed-time can profitably be employed, in any degree, in attendance upon the courts or in appren-

ticeship in an office. I do not speak, of course, of an occasional excursion into these regions when some great case is up, or some great lawyer is to be heard, or of the occasional continuous use of time in such ways during these long vacations which are generally allowed nowadays. Nor do I mean to deny that attendance upon courts to witness the trial of a case now and then will be a good school exercise. I speak only of systematic attempts to combine attendance at law schools with office work and with watching the courts. The time for all that comes later, or perhaps in some cases, before."

We shall not stop to discuss whether our course of two years is too long or too full, but content ourselves with a quotation from the address of Henry Wade Rogers, LL. D., President of the Northwestern University and Dean of its Law School, delivered by him at Saratoga Springs, New York, August, 1894, as chairman of the Section of Legal Education of the American Bar Association. Discussing the time required for degrees he said:

"A degree in law conferred by a German or an Austrian University means something, but, unfortunately, in the United States a degree from a Law School has no definite meaning, unless the name of the institution conferring it is known. Under existing conditions in this country the degree of Bachelor of Laws may mean a study of the law for either one, two or three years. A degree acquired by studying law for one year is cheaply obtained, and the practice of thus conferring it deserves censure. It is certainly bad enough to confer it at the end of two years, now that so many of the schools have adopted the third year."

At the same session of the American Bar Association, John H. Wigmore, a Professor of Law in the Northwestern University Law School, himself a graduate of the Harvard University Law School, in discussing "What are the outward signs in law school work that we are enforcing this fundamental principle that legal training, like other scientific training, demands the student's whole working time and is incompatible with regular outside occupation," said:

"1. Daylight lectures or recitations. Where the regular schedule of lectures or recitations is assigned to evening hours, the natural result is to permit and encourage the attendance of those who are already giving the best of their time to other activities and cannot do worthy work for the school. This is not suggesting that the hours should be so chosen as to exclude the possibility of outside work; probably no school attempts to do this. It is merely that the hours should not be selected with the ex-

press idea of accommodating and inviting those who make the law school a side issue, an accessory occupation. It seems impossible to expect that those whose day is spent in other affairs can give any satisfactory time to legal study, or even bring active and ready minds to the lectures or recitations. The practical result is that the two or three hours—in some schools one hour—of daily presence with the instructors constitute the sum of time devoted to the school work. But you will probably ask, What is to become of those worthy young men who are forced to earn a livelihood during the day, and whose only possible time for attendance is found in the evening hours? Are they to be shut out entirely from the opportunity of legal education in law schools? This is an inevitable question, but I do not see how there can be any doubt as to the answer. Of course they are. It is only the anomalous development of legal education that could make the question possible. No one ever thought of giving a college degree or an engineering degree for one-quarter the regular work merely because there are those whose means do not permit them to do the required work. There are today, and always will be, hundreds and perhaps thousands of worthy young men who are shut out from a collegiate or a technical training simply because they must be earning money and have not the time to give to study. But we do not see the colleges and technical schools throughout the country lowering their standards to accommodate these worthy young men. We do see them constantly adding to their free scholarships in order to satisfy such legitimate and praiseworthy ambitions. But we do not, except in law schools, find them ready to give a superficial and inadequate training to all comers because a certain few cannot fulfil the demands of a worthy standard of training. It is time that we got free of this curious attitude of complaisance and temporizing, and recognized that there is only one right attitude equally for legal education and for other technical education. In all other things there is one price which all must pay for a standard training; that price is, sufficient time and labor. But in law the young man who cannot bring this price is allowed to think that he can get this standard education for a trifle, because he has only a trifle to give, this trifle being, to take one instance, one hour a day in the evening. But the laws of mental growth and equipment are inexorable; they may be ignored, but they cannot be evaded. You can get only so much as you pay for; and for a trifle, you can get—no more than a trifle."

"2. The arrangement and conduct of the courses of in-

struction should be such as will fairly occupy the working time of the student. This is only saying that the student should be made to do as much work as is essential to a fair preparation for his business. What is a man's whole time, for two or for three years in working on such a field as the law? In the old-fashioned books on the subject of law study, the student is advised to give his time for three or four years; and surely as much time is needed to-day as was needed in the days of Washburn and Kent. It is often easy for an instructor to gain popularity with students by doing all the work himself, and by entertaining them, like a Sunday school class, with a simplified exposition, smoothed of all its difficulties and reduced to its lowest terms. But the question is whether this is fair to the student. Is it fair to let him think that the law is simple and easily applied, when we know that it is not and never will be—even in the millennial days of a Code? Is it not fairer to let him appreciate its difficulties, to give him thorough exercitation in them before he goes to grapple with his elders in the profession, to send him out callous and wiry instead of tender and flabby? For the student, his own individual hard work is just as important a part of Law School experience as the time with the instructor. As an iceberg's projecting summit is balanced by several times as great a mass submerged beneath the water, so the two or three hours daily with the instructor should be complemented by a much larger amount of outside work."

"3. In our catalogues and our daily answers to inquiring students, let us emphasize the necessity of this whole-souled devotion to their work. The student depends largely upon the instructor's standards, and a word here and there will be invaluable. If we do our duty in this respect by the profession and by the students, we may expect that the effects will soon appear. The next generation, at least, will accept it for truth that the standards of orthodox legal education in this respect are not to fall below the standards of technical education in general."

The next session of this Law School begins September 16, 1897. No examination is required for admission to the Junior Class. Applicants for admission to the Senior Class must be on hand promptly on September 17, 1897, at 9 A. M., at which hour the examination will begin. For information as to courses of study and text-books apply to the Chancellor's office, University P. O., Miss., for the annual catalogue. Persons desiring more specific information will write to Prof. G. D. Shands, University P. O., Miss. Students coming to us from other Law Schools, and satisfying us of having passed its examinations, may be admitted

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to our Senior Class without further examination. Our course includes work enough for two years, and is intended to be taken only in two years; yet if a student, by reason of previous reading or otherwise, is able to cover both courses in one year and pass satisfactorily all the examinations, he is granted his diploma. As far as able we discourage this, and only yield to it in any case because of the precedent which has obtained here for many years. Year by year a smaller number of our students attempt the double course, and we hope soon to see it entirely disappear.

Yours very truly,

R. B. FULTON,
Chancellor.

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